HON'BLE MS JUSTICE G. ROHINI

W.P.NO. 22841 OF 2006

DATED: 17.4.2007

Between:

Malla Nageswara Rao and others

… Petitioners

and

The District Collector, East Godavari and others

… Respondents

HON'BLE MS JUSTICE G. ROHINI

W.P.NO.22841 OF 2006

ORAL ORDER:

This writ petition is filed seeking a declaration that the action of the respondents in acquiring the lands of the petitioners to an extent of Ac.5.07 cents situated in Sy.No.8/3 of Jaggammagaripeta village, Samalkota Mandal, East Godavari District, vide notification issued under Section 4 (1) of the Land Acquisition Act, 1894 (for short 'the Act') dated 21.9.2006, as arbitrary and illegal.

It is primarily contended that since the enquiry under Section 5-A of the Act is dispensed with under the impugned notification, there was no opportunity to the petitioners who are the owners of the property to raise the objections against the proposed acquisition.

This court while directing notice to the respondents by order dated 3.11.2006 granted stay of dispossession.

When the matter is taken up for consideration, it is brought to my notice that the very same notification dated 21.9.2006 was the subject matter of W.P.No.24323 of 2006 preferred by some other

owners of the land, proposed to be acquired.

Having considered the identical contentions raised by the petitioners therein, the said writ petition was disposed of by this court by order dated 22.11.2006 permitting the petitioners therein to raise the objections and the same shall be considered by the competent authority. The operative portion of the said order may be extracted as under:

> "In the aforesaid circumstances, after hearing the learned Government Pleader for Land Acquisition, the writ petition is disposed of permitting the petitioners including the 3rd petitioner to lodge objections to the process of acquisition before the 2nd respondent. On such objections being lodged, the respondent shall consider the same in the enquiry scheduled under Section 5-A of the Act, after issuing to the petitioners a notice under Section 5-A proposing and mentioning the date of the enquiry. The competent authority shall consider the objections submitted by the petitioners to the process of enquiry and take a decision on the matter and communicate the same to the petitioners by Registered Post Acknowledgment Due. Till such communication to the petitioners of the decision taken under Section 5-A (2) of the Act, the petitioners shall not be dispossessed from the lands they are in occupation of in Sy.No.9/4, Jaggammagaripeta, Samalkota town and mandal, East Godavari District. There shall be no order as to costs."

It is not disputed by the respondents that the petitioners herein also stand on the same footing. Accordingly, the writ petition is disposed of in terms of the order dated 22.11.2006 in W.P.No.24323 of 2006 with a direction that the petitioners herein shall not be dispossessed from the lands in question till the objections raised by them are considered and appropriate decision is taken and

communicated to the petitioners. No costs.

G. ROHINI, J

Date: 17.4.2007
cvm